

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the Matter of:

INDUSTRIAL WASTE PROCESSING, FRESNO, CA
SITE NUMBER CAD980736284

AMERICAN NATIONAL CAN COMPANY; ATLANTIC
RICHFIELD COMPANY; CHEVRON U.S.A. INC.;
CONTINENTAL CAN COMPANY, INC.,
represented by CROWN BEVERAGE
PACKAGING, INC.; THE DOW CHEMICAL
COMPANY; MOBIL OIL CORPORATION;
NL INDUSTRIES, INC.; PACIFIC GAS &
ELECTRIC COMPANY; SHELL OIL COMPANY;
SOUTHERN CALIFORNIA GAS COMPANY; TEXACO,
INC.; and TRI-VALLEY GROWERS,

RESPONDENTS.

Proceeding Under Sections 104, 106, 107,
120, 122(a) and 122(d)(3)
of the Comprehensive
Environmental Response, Comp-
ensation, and Liability Act of 1980
(42 U.S.C. §§9604, 9607, 9620, 9622(a)
and 9622(d)(3)),
as amended by the Superfund
Amendments and Reauthorization
Act of 1986

U.S. EPA Docket
No. 93-10

ADMINISTRATIVE ORDER ON CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY
(Operable Unit for Soils)

I. INTRODUCTION

1. This Administrative Order on Consent ("Consent
Order" or "Order") is entered into voluntarily by the United
States Environmental Protection Agency ("EPA"), and American
National Can Company; Atlantic Richfield Company; Chevron U.S.A.
Inc.; Continental Can Company, Inc., represented by Crown
Beverage Packaging, Inc.; The Dow Chemical Company; Mobil Oil

1 Corporation; NL Industries, Inc.; Pacific Gas & Electric Company;
2 Shell Oil Company; Southern California Gas Company; Texaco, Inc.;
3 and Tri-Valley Growers (each except EPA a "Respondent" and
4 together being the "Respondents"). This Consent Order concerns
5 the preparation and performance of a remedial investigation and
6 feasibility study (RI/FS) for soils for the Industrial Waste
7 Processing Facility, located in Fresno, California. The
8 work performed under this Consent Order shall constitute an
9 operable unit for soils ("the OU for soils").

10 II. JURISDICTION

11 2. This Consent Order is issued under the authority
12 vested in the President of the United States by sections 104,
13 106, 107, 120, 122(a) and 122(d)(3) of the Comprehensive
14 Environmental Response, Compensation, and Liability Act, as
15 amended ("CERCLA"), 42 U.S.C. §§9604, 9607, 9620, 9622(a) and
16 9622(d)(3). The authority under sections 104, 106 and 122 has
17 been delegated by the President to the Administrator of EPA on
18 January 23, 1987 by Executive Order 12580, 52 Fed. Reg. 2926
19 (1987). Some of the authority relevant to this Order has been
20 further delegated to Regional Administrators on September 13,
21 1987 by EPA Delegation Nos. 14-8-A and 14-14-C. This authority
22 has been redelegated to the Director, Hazardous Waste Management
23 Division, EPA Region IX, by Delegation 1290.41 and 1290.42.

24 3. Respondents agree to implement the RI/FS as
25 provided in the RI/FS Work Plan attached as Appendix B in full
26 accordance with the terms and schedules set forth in this Order
27 and its Appendices and to undertake all other actions required by
28 the terms and conditions of this Consent Order. In any action by

1 EPA to enforce the terms of this Consent Order, Respondents
2 consent to and agree not to contest the authority or jurisdiction
3 of the Regional Administrator or other officials to issue or
4 enforce this Consent Order, and agree not to contest the validity
5 of this Order or its terms.

6 III. PARTIES BOUND

7 4. This Consent Order shall apply to and be binding
8 upon the United States, EPA, Respondents and their agents,
9 successors, and assigns. No agent, officer, director, trustee,
10 member or employee of any Respondent, nor any person controlled
11 by or controlling any or all Respondents, nor any agent,
12 successor, assign, officer, director, trustee or employee or any
13 such controlling or controlled person shall violate this Order.
14 Respondents are jointly and severally responsible for carrying
15 out all actions required of them by this Consent Order and for
16 all obligations assumed by them pursuant to this Consent Order.
17 The signatories to this Consent Order certify that they are
18 authorized to execute and legally bind the parties they purport
19 to represent. No change in the ownership or legal status of any
20 Respondent shall alter any Respondent's obligations under this
21 Consent Order.

22 5. Each Respondent shall provide a copy of this
23 Consent Order to each person into which such Respondent is merged
24 or consolidated and to any other person that succeeds to its
25 rights or liabilities. Within 14 days after the effective date
26 of this Consent Order or the date of contracting, whichever is
27 later, Respondents shall provide a copy of this Consent Order to
28 each person retained by any one or more Respondents to conduct

1 any work pursuant hereto, including all contractors,
2 subcontractors, laboratories and consultants. Respondents shall
3 condition any such contracts upon compliance with this Consent
4 Order. Notwithstanding the terms of any contract, Respondents
5 are responsible for compliance with this Consent Order and for
6 ensuring that their subsidiaries, employees, contractors,
7 consultants, subcontractors, agents and attorneys comply with
8 this Consent Order.

9 IV. STATEMENT OF PURPOSE

10 6. In entering into this Consent Order, the objectives
11 of EPA and the Respondents are: (a) to determine the nature and
12 extent of contamination and any threat to the public health,
13 welfare, or the environment caused by the release or threatened
14 release of hazardous substances, pollutants or contaminants at or
15 from the Industrial Waste Processing Facility, by conducting a
16 remedial investigation ("RI") of soils as provided in Appendix B;
17 (b) to determine and evaluate alternatives for remedial action to
18 prevent, mitigate or otherwise respond to or remedy any release
19 or threatened release of hazardous substances, pollutants, or
20 contaminants at or from the Industrial Waste Processing Facility
21 by conducting a feasibility study ("FS") of soils as provided in
22 Appendix B; and (c) to recover past costs, as provided in Section
23 XX of this Consent Order, as well as to recover response and
24 oversight costs, as provided in paragraph 67 of this Consent
25 Order.

26 7. The activities conducted under this Consent Order
27 are subject to approval solely by EPA as set forth in this Order
28 and shall result in the provision of all appropriate information

1 for the RI/FS, as well as all appropriate data for the baseline
2 risk assessment to be performed by EPA, and for a record of
3 decision, all of which shall be consistent with CERCLA and the
4 National Contingency Plan ("NCP"), 40 C.F.R. Part 300. The
5 activities conducted under this Consent Order shall be conducted
6 in a manner consistent with all applicable guidance issued by EPA
7 and all EPA policies and procedures.

8 V. EPA'S FINDINGS OF FACT

9 8. "Site" as used herein shall mean all portions of
10 the Industrial Waste Processing ("IWP") Facility located at 7140
11 North Harrison Street in Fresno, Fresno County, California, as
12 specified by the approximate boundaries shown in Appendix A.

13 "Facility" as used herein shall mean the Site, as defined above,
14 and any area onto or into which contaminants from such property
15 have come to be located, and any other areas necessary for
16 implementation of the response action. Nothing in this Order is
17 intended (1) to modify or limit the definition of the IWP
18 Facility for purposes of the National Priorities List, or (2) to
19 modify or limit EPA's authority to perform, or direct any
20 potentially responsible party to perform, any response actions at
21 the IWP Facility, in addition to those response actions which are
22 the subject of this Consent Order.

23 9. The IWP Facility was added to the National
24 Priorities List on August 30, 1990 (55 Fed. Reg. 35502) pursuant
25 to section 105 of CERCLA.

26 10. Operations at the Site began in approximately 1967
27 and ended in approximately 1983. The Site was operated primarily
28 as a chemical reclamation facility. Reclamation activities

1 included the reclamation of solvents from printing operations,
2 the reclamation of glycols from natural gas pipeline wastes, the
3 reclamation of solder from solder dross, as well as other
4 miscellaneous chemical reclamation activities. The Site was also
5 used for the mixing and distribution of bulk chemicals, including
6 alcohols, acetones, toluene, benzene, xylene, and
7 trichloroethene.

8 11. In August 1988, pursuant to section 104(c) of
9 CERCLA, EPA conducted a removal action at the Facility.
10 Materials disposed of at the Facility included materials
11 containing lead and zinc, flammable liquid and solid materials,
12 oily liquid and solid materials, and liquid and solid materials
13 containing concentrations of various solvents including
14 trichloroethene, tetrachloroethene, 1,1,1-trichloroethane,
15 xylene, toluene, ethyl benzene, and benzene. Analyses of surface
16 and subsurface soils for metals and chlorinated solvents were
17 conducted down to a depth of 6.5 feet. Concentrations of lead
18 (64,300 mg/kg) and zinc (28,400 mg/kg) were detected in the top
19 one foot of soil, and fifteen (15) different chlorinated volatile
20 organic compounds were detected within the top 6.5 feet of soil,
21 including trichloroethene (3.1 mg/kg), tetrachloroethene (80
22 mg/kg), 1,1,1-trichloroethane (15 mg/kg), 1,2-dichlorobenzene (31
23 mg/kg), and methylene chloride (17 mg/kg).

24 12. In 1990, the California Department of Health
25 Services conducted an on-Site soil boring down to groundwater and
26 installed an on-Site monitoring well. The depth to groundwater
27 is approximately 115 feet below ground surface. Analyses of
28 soils from the soil boring found concentrations of acetone at

1 11.1 mg/kg at 42 feet below ground surface, and found
2 trichloroethene vapor, using a field gas chromatograph, at
3 various depths to groundwater. Analysis of groundwater from the
4 on-Site well found acetone at 48 ug/l and seven chlorinated
5 volatile organic compounds at various concentrations, including
6 trichloroethene at 120 ug/l. Six of the seven chlorinated
7 volatile organic compounds detected in groundwater were also
8 detected in the soil samples collected on-Site by EPA. Other
9 properties in the vicinity of the Site, including upgradient
10 properties, are also being investigated as potential sources of
11 the chlorinated volatile organic compounds detected in
12 groundwater.

13 13. EPA has classified trichloroethene,
14 tetrachloroethene, methylene chloride, and lead as probable human
15 carcinogens via ingestion. Trichloroethene, tetrachloroethene,
16 1,1,1-trichloroethane, 1,2-dichlorobenzene, xylene, toluene,
17 ethyl benzene, benzene, methylene chloride, lead, and zinc are
18 defined as hazardous substances under CERCLA §101(14), 42 U.S.C.
19 §9601(14).

20 14. Actual and/or potential contaminant releases and
21 migration pathways include direct inhalation and ingestion of
22 contaminated soils and dust, and migration of contaminants in the
23 soil to groundwater and drinking of contaminated groundwater.
24 The aquifer under the Site is a sole-source aquifer that is used
25 by the City of Fresno for drinking water. Drinking water wells
26 near the Site have been closed as a result of contamination in
27 the groundwater.

1 15. Charles V. Simmons, Jr. is an owner and operator
2 of the Site under CERCLA §107(a)(1) and was an owner and operator
3 at the time of disposal under CERCLA §107(a)(2). Industrial
4 Waste Processing was an operator of the Site at the time of
5 disposal under CERCLA §107(a)(2). Atlantic Richfield Company;
6 Certified Ad Services, Inc.; Chevron U.S.A. Inc.; Continental Can
7 Company, Inc., represented by Crown Beverage Packaging, Inc.; The
8 Dow Chemical Company; Emerald Packaging, Inc.; Getty Oil Company;
9 Mobil Oil Corporation; NL Industries, Inc.; American National Can
10 Company; Pacific Gas & Electric Company; Shell Oil Company;
11 Southern California Gas Company; Tri-Valley Growers; United Can
12 Company; Fairchild Semiconductor Corporation; Modine
13 Manufacturing Company; Pennsylvania Spray Products Corporation;
14 Lomita Gas Corporation; Union Oil of California; and GSF Energy
15 Inc. have been identified by EPA as potentially responsible as
16 generators of hazardous substances under CERCLA §107(a)(3). The
17 Respondents are: American National Can Company; Atlantic
18 Richfield Company; Chevron U.S.A. Inc.; Continental Can Company,
19 Inc., represented by Crown Beverage Packaging, Inc.; The Dow
20 Chemical Company; Mobil Oil Corporation; NL Industries, Inc.;
21 Pacific Gas & Electric Company; Shell Oil Company; Southern
22 California Gas Company; Texaco, Inc.; and Tri-Valley Growers.

23 VI. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

24 16. The Site is part of a "facility" as defined in
25 section 101(9) of CERCLA, 42 U.S.C. §9601(9).

26 17. Materials, and constituents thereof, present or
27 found at the Facility, identified in paragraph 11, are or contain
28

1 "hazardous substances" as defined in section 101(14) of CERCLA,
2 42 U.S.C. §9601(14).

3 18. The presence of hazardous substances at the Site
4 and/or the past, present or potential migration of hazardous
5 substances currently located at or emanating from the Site
6 constitute actual and/or threatened "releases" as defined in
7 section 101(22) of CERCLA, 42 U.S.C. §9601(22).

8 19. Each Respondent is a "person" as defined in
9 section 101(21) of CERCLA, 42 U.S.C. §9601(21).

10 20. Each Respondent has agreed to perform the actions
11 required by this Order regardless of whether it is a responsible
12 party under sections 104, 106, 107 and 122 of CERCLA, 42 U.S.C.
13 §§9604, 9606, 9607 and 9622.

14 21. EPA has determined that the actions required by
15 this Consent Order are necessary to protect the public health or
16 welfare or the environment, are in the public interest, 42 U.S.C.
17 §9622(a), are consistent with CERCLA and the NCP, 42 U.S.C.
18 §§9604(a)(1) and 9622(a), and will expedite effective remedial
19 action and minimize litigation, 42 U.S.C. §9622(a).

20 VII. NOTICE

21 22. By providing a copy of this Consent Order to the
22 State of California, EPA is notifying the State that this Order
23 is being issued and that EPA is the lead agency for coordinating,
24 overseeing and enforcing the actions required by the Order.

25 VIII. WORK TO BE PERFORMED

26 23. All work performed by or on behalf of Respondents
27 under this Consent Order shall be done by and under the
28 supervision of personnel with experience and education sufficient

1 to qualify them to perform properly and promptly the actions
2 required hereby. EPA does not object to the technical
3 qualifications of Environmental Strategies Corporation and of the
4 staff identified in Appendix B. Within 35 days of the effective
5 date of this Order, Respondents shall notify EPA in writing of
6 all names, titles and qualifications of any additional
7 supervisory personnel, other contractors, subcontractors,
8 consultants and laboratories, that have been retained to carry
9 out such work. Within twenty days of EPA's receipt of the
10 written notice, EPA shall have the opportunity to disapprove of
11 the qualifications of these additional personnel or entities. If
12 EPA disapproves in writing of any person's or entity's technical
13 qualifications, Respondents shall, within 35 days of the written
14 notice, notify EPA of the identity and qualifications of the
15 replacement or indicate that no qualified replacement is
16 available and explain in writing the reasons therefor. If EPA
17 disapproves of the replacement, EPA reserves the right to
18 terminate this Order and conduct a complete RI/FS, to seek
19 reimbursement for costs and penalties from Respondents and/or to
20 seek stipulated or statutory penalties. During the course of the
21 RI/FS, Respondents shall notify EPA in writing of any changes or
22 additions in the supervisory personnel previously identified and
23 not disapproved by EPA, or the personnel identified in Appendix
24 B, providing their names, titles and qualifications. EPA shall
25 have the same opportunity to disapprove changes and additions to
26 personnel as it has hereunder regarding the initial notification.

27 24. It is hereby agreed to and ordered that
28 Respondents shall conduct activities and submit deliverables as

1 provided in Appendix B, the RI/FS Work Plan, ("the work"). All
2 such work shall be conducted in accordance with CERCLA, the NCP
3 and, where applicable, shall be consistent with EPA guidance,
4 including, but not limited to, the "Interim Final Guidance for
5 Conducting Remedial Investigations and Feasibility Studies under
6 CERCLA" (OSWER Directive #9355.3-01), "Guidance for Data
7 Useability in Risk Assessment" (OSWER Directive #9285.7-05),
8 guidance referenced therein and guidance referenced in the RI/FS
9 Work Plan, as they may be properly amended or modified by EPA.
10 The general activities that Respondents are required to perform,
11 deliverables that Respondents are to prepare, and tasks that
12 Respondents must perform are described in Appendix B, which is
13 incorporated by reference herein and is an enforceable part of
14 this Order. All work performed by Respondents under this Consent
15 Order shall be in accordance with the RI/FS Work Plan and in full
16 accordance with the standards, specifications and other
17 requirements of the Sampling and Analysis Plan as initially
18 approved or as modified by EPA. For purposes of this Order, time
19 shall be calculated in the following manner, in accordance with
20 Rule 6(a) of the Federal Rules of Civil Procedure. In computing
21 any period of time, the day of the act, event, or default from
22 which the designated period of time begins to run shall not be
23 included. The last day of the period so computed shall be
24 included, unless it is a Saturday, a Sunday, or a federal legal
25 holiday, in which event the period runs until the end of the next
26 day which is not one of the aforementioned days. When the period
27 of time prescribed or allowed is less than 11 days, intermediate
28 Saturdays, Sundays, and federal legal holidays shall be excluded

1 in the computation. As used in this Order, "federal legal
2 holiday" includes New Year's Day, Birthday of Martin Luther King,
3 Jr., Washington's Birthday, Memorial Day, Independence Day, Labor
4 Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day,
5 and any other day appointed as a holiday by the President or the
6 Congress of the United States. In the event of any inconsistency
7 between Appendix B and this Order, this Order shall prevail.

8 25. Appendix B of this Consent Order includes a list
9 of deliverables for the RI/FS. EPA shall, as indicated in
10 Appendix B, review, comment upon, and approve or disapprove each
11 report, document or other deliverable. At EPA's discretion,
12 Respondents must fully correct all deficiencies and incorporate
13 and integrate all information and comments supplied by EPA either
14 in subsequent or resubmitted deliverables. In any notice of
15 disapproval EPA shall state the reasons for its disapproval. EPA
16 may, in its discretion, extend the deadline for submittal or
17 resubmittal of any deliverable. If the Respondents disagree with
18 EPA's actions under this paragraph, they may invoke the dispute
19 resolution procedures under Section XVII of this Consent Order.

20 26. Respondents shall not proceed with any activities
21 or tasks due to be performed after the due date of any of the
22 deliverables, as set forth in Appendix B, until receiving EPA
23 approval of such deliverable. While awaiting EPA approval of
24 these deliverables, Respondents shall proceed with all other
25 tasks and activities that may be conducted independently of these
26 deliverables, in accordance with the schedule set forth in
27 Appendix B.

28 Upon receipt of the feasibility study report, EPA will

1 evaluate, as necessary, the estimates of the risk to the public
2 and environment that are expected to remain after a particular
3 remedial alternative has been completed.

4 27. EPA reserves the right to stop Respondents, where
5 proper cause exists, from proceeding, either temporarily or
6 permanently, on any task, activity or deliverable at any point
7 during the RI/FS. If EPA exercises such right, Respondents may
8 invoke the dispute resolution procedures under section XVII of
9 this Order. Pending the outcome of the dispute resolution
10 process, the Respondents shall not proceed further with the task,
11 activity or deliverable at issue.

12 28. EPA reserves the right to take over a portion or
13 all of the RI/FS if EPA determines, with justification, that
14 Respondents have failed to perform any substantial portion of the
15 RI/FS or have performed any substantial portion thereof in such
16 an inadequate or untimely manner that, in either of such
17 circumstances, the successful, timely completion of the RI/FS is
18 in jeopardy. If EPA does so, the Respondents shall pay to EPA a
19 penalty equal to 100% of the cost incurred by EPA in performing
20 the work taken over by EPA, not to exceed \$100,000 for any single
21 take over ("takeover of work penalty"). Payment of this penalty
22 is in addition to the obligation to reimburse EPA for 100% of
23 response and oversight costs.

24 The takeover of work penalty shall be paid within 30 days
25 after EPA provides written notice of its decision to take over
26 the RI/FS and to assess the takeover of work penalty unless a
27 Respondent invokes dispute resolution. If a Respondent invokes
28 dispute resolution and EPA prevails, the appropriate

1 Respondent(s) shall pay, at the conclusion of the dispute
2 resolution process, the takeover of work penalty, plus interest
3 as specified in 42 U.S.C. §9607.

4 In addition, if EPA takes over a portion or all of the
5 RI/FS, Respondents shall reimburse EPA for the costs of doing the
6 work EPA has taken over within 30 days of receipt of demand for
7 payment of such costs. The other provisions of this Order
8 concerning cost reimbursement shall apply to this reimbursement
9 obligation.

10 The Respondents shall also be liable for any obligations
11 (including to pay costs and stipulated penalties) that accrued to
12 them respectively prior to EPA's decision to take over work.

13 29. In the event EPA performs some tasks but does not
14 prepare the RI/FS, Respondents shall incorporate and integrate
15 information supplied by EPA into the final RI/FS report, and
16 Respondents shall prepare the RI and FS reports according to the
17 schedule in the Appendix B.

18 30. Neither failure of EPA to expressly approve or
19 disapprove of Respondents' submissions within a specified time,
20 nor the absence of comments, shall be construed as approval by
21 EPA. No informal advice, guidance, suggestions or comments by
22 EPA regarding reports, plans, specifications, schedules or other
23 writings submitted by Respondents will be construed as relieving
24 Respondents of their obligation to obtain such formal approval as
25 may be required by this Order. No informal advice, guidance,
26 suggestions, or comments by EPA shall be construed as disapproval
27 unless specifically identified as such. Any deliverables
28

1 required by this Consent Order are, upon approval by EPA,
2 enforceable under this Order.

3 31. Respondents shall, prior to any off-Site shipment
4 of hazardous substances from the Site to an out-of-state waste
5 management facility, provide written notification to the
6 appropriate state environmental official in the receiving state
7 and to EPA of such shipment. However, such notification is not
8 required with regard to any such shipment if the volume does not
9 exceed ten (10) cubic yards.

10 (a) The notification shall be in writing and shall
11 include the following information: (1) the name and location of
12 the facility to which the hazardous substances are to be shipped;
13 (2) the type and estimated quantity of the hazardous substances
14 to be shipped; (3) the expected schedule for the shipment of the
15 hazardous substances; and (4) the method of transportation.
16 Respondents shall notify the receiving state of major changes in
17 the shipment plan, such as a decision to ship the hazardous
18 substances to another facility in the same state or to a facility
19 in another state.

20 (b) The identity of the receiving facility and state
21 will be determined by Respondents following the award of the
22 contract for the RI/FS. Respondents shall provide to EPA the
23 information described in paragraph 31(a) above, on the off-Site
24 shipment, as soon as practical after the award of the contract
25 and before the hazardous substances are shipped but not less than
26 45 days prior to shipment of said hazardous substances.

IX. MODIFICATION OF THE RI/FS WORK PLAN
OR SAMPLING AND ANALYSIS PLAN

32. If, at any time during the RI/FS process, Respondents identify a need for additional work to complete the RI/FS, a memorandum documenting the need for additional work and including a conceptual plan for completing the work shall be submitted to EPA for approval. Within 21 days after EPA approval of the memorandum, Respondents shall prepare an addendum to the Sampling and Analysis Plan for EPA approval that addresses the additional work. Respondents shall complete the additional work in accordance with the standards, specifications, requirements, and schedules approved by EPA in the addendum to the Sampling and Analysis Plan.

33(a). Subject to the limitations set forth in subparagraph 33(b) below, in the event that Respondents or any one of them discover conditions posing an imminent and substantial endangerment to public health or welfare or the environment at the Site, Respondents shall notify EPA and appropriate state authorities immediately. In the event of unanticipated or changed circumstances at the Site that materially affect work being performed or to be performed hereunder, Respondents shall notify EPA by telephone within two days of discovery of the unanticipated or changed circumstances. In the event that EPA determines that such threat or the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan or sampling and analysis plan, EPA may modify or amend the RI/FS Work Plan or sampling and analysis plan with respect to the soils investigation. Respondents shall perform

1 the RI/FS Work Plan or sampling and analysis plan as modified or
2 amended by EPA, or, alternatively, the Respondents may invoke the
3 dispute resolution procedures under section XVII of this Consent
4 Order. The provisions of this Consent Order relating to
5 stipulated penalties shall not apply to any additional work
6 directed under this subparagraph until either (i) Respondents
7 have confirmed their willingness to perform the additional work,
8 or (ii) additional work is required as a result of dispute
9 resolution.

10 (b) The provisions of subparagraph 33(a) shall not apply to
11 any work involving the investigation of chlorinated solvents
12 located off-Site (the "off-Site chlorinated solvents work"). If
13 during the course of the RI/FS EPA determines that any off-Site
14 chlorinated solvents work is warranted, EPA may request in
15 writing that Respondents perform the off-Site chlorinated
16 solvents work. The request shall describe the off-Site
17 chlorinated solvents work which EPA believes should be performed.
18 Within 14 days of receipt of EPA's written request, the
19 Respondents shall submit a written response to EPA, either
20 agreeing to perform the off-Site chlorinated solvents work or
21 declining to perform the off-Site chlorinated solvents work. If
22 the Respondents agree to perform the off-Site chlorinated
23 solvents work, they shall submit to EPA, within 21 days of their
24 written response agreeing to perform such work, an addendum to
25 the Sampling and Analysis Plan which addresses the off-Site
26 chlorinated solvents work to be performed. Upon EPA's approval
27 of the addendum, the Respondents shall perform the off-Site
28 chlorinated solvents work in accordance with the addendum. If

1 the Respondents decline to perform the chlorinated solvents work,
2 EPA shall not require the Respondents to perform the off-Site
3 chlorinated solvents work under this Consent Order.

4 Notwithstanding the foregoing, if the Respondents decline to
5 modify or amend the Work Plan or the sampling and analysis plan
6 with respect to the off-Site chlorinated solvents work, or
7 decline to perform the off-Site chlorinated solvents work, EPA
8 reserves all of its rights to take either or both of the
9 following courses of action: (i) To issue a unilateral
10 administrative order directing any potentially responsible
11 parties, including the Respondents, to perform the off-Site
12 chlorinated solvents work; or (ii) to perform the off-Site
13 chlorinated solvents work itself or through its contractors or
14 agents, and to recover the costs of the off-Site chlorinated
15 solvents work from any potentially responsible parties, including
16 the Respondents. EPA and Respondents reserve all of the rights
17 and defenses which they may have under law with respect to either
18 of said courses of action.

19 34(a). Subject to the limitations set forth in
20 subparagraph 34(b) below, EPA may determine that additional work
21 related to the conducting of an RI/FS for soils is necessary. In
22 the event EPA determines that additional work related to the
23 conducting of an RI/FS for soils is necessary, EPA will provide
24 the Respondents with written direction describing the additional
25 work to be performed. Within seven days of receipt of EPA's
26 written direction, Respondents shall confirm in writing to EPA
27 their willingness to perform the additional work or Respondents
28 shall invoke the dispute resolution procedures under section XVII

1 of this Consent Order. Within 21 days of (i) Respondents'
2 confirmation of their willingness to perform the additional work
3 or (ii) the completion of the dispute resolution process,
4 Respondents shall prepare an addendum to the Sampling and
5 Analysis Plan which addresses the additional work. Respondents
6 shall complete additional work in accordance with the standards,
7 specifications, requirements, and schedules determined or
8 approved by EPA in a written addendum to the Sampling and
9 Analysis Plan. The provisions of this Consent Order relating to
10 the assessment of stipulated penalties shall not apply to any
11 additional work requested under this paragraph until either (i)
12 Respondents have confirmed their willingness to perform the
13 additional work, or (ii) additional work is required as a result
14 of dispute resolution.

15 (b) The provisions of subparagraph 34(a) shall not apply to
16 any work related to chlorinated solvents located off-Site (the
17 "off-Site chlorinated solvents work"). If during the course of
18 the RI/FS EPA determines that any off-Site chlorinated solvents
19 work is warranted, EPA may request in writing that Respondents
20 perform the off-Site chlorinated solvents work. The request
21 shall describe the off-Site chlorinated solvents work which EPA
22 believes should be performed. Within 14 days of receipt of EPA's
23 written request, the Respondents shall submit a written response
24 to EPA, either agreeing to perform the off-Site chlorinated
25 solvents work or declining to perform the off-Site chlorinated
26 solvents work. If the Respondents agree to perform the off-Site
27 chlorinated solvents work, they shall submit to EPA, within 21
28 days of their written response agreeing to perform such work, an

1 addendum to the Sampling and Analysis Plan which addresses the
2 off-Site chlorinated solvents work to be performed. Upon EPA's
3 approval of the addendum, the Respondents shall perform the off-
4 Site chlorinated solvents work in accordance with the addendum.
5 If the Respondents decline to perform the off-Site chlorinated
6 solvents work, EPA shall not require the Respondents to perform
7 the off-Site chlorinated solvents work under this Consent Order.
8 Notwithstanding the foregoing, if the Respondents decline to
9 perform the off-Site chlorinated solvents work, EPA reserves all
10 of its rights to take either or both of the following courses of
11 action: (i) To issue a unilateral administrative order directing
12 any potentially responsible parties, including the Respondents,
13 to perform the off-Site chlorinated solvents work; or (ii) to
14 perform the off-Site chlorinated solvents work itself or through
15 its contractors or agents, and to recover the costs of the off-
16 Site chlorinated solvents work from any potentially responsible
17 parties, including the Respondents. EPA and Respondents reserve
18 all of the rights and defenses which they may have under law with
19 respect to either of said courses of action.

20 X. QUALITY ASSURANCE

21 35. Respondents shall guarantee that work performed,
22 samples taken and analyses conducted conform to the requirements
23 of the Work Plan, the Quality Assurance Project Plan ("QAPP") and
24 guidance identified therein. Respondents shall guarantee that
25 field personnel used by Respondents are properly trained in the
26 use of field equipment and in chain of custody procedures.
27
28

1 XI. FINAL RI/FS, PROPOSED PLAN, PUBLIC COMMENT,

2 RECORD OF DECISION, ADMINISTRATIVE RECORD

3 36. EPA retains responsibility for the release of the
4 RI/FS report to the public. EPA retains responsibility for the
5 preparation and release to the public of the proposed plan and
6 record of decision in accordance with CERCLA and the NCP.

7 37. EPA will provide the Respondents with a copy of
8 the final RI/FS report, proposed plan and record of decision.

9 38. EPA will prepare the administrative record for the
10 selection of the remedial action. As provided in this Consent
11 Order, Respondents must submit to EPA, subject to paragraphs 42
12 and 43 hereof, documents developed during the course of the RI/FS
13 upon which selection of the response action may be based. Such
14 documents shall include, but shall not be limited to, copies of
15 plans, task memoranda including documentation of field
16 modifications, recommendations for further action, quality
17 assurance memoranda and audits, raw data, field notes, laboratory
18 analytical reports and other reports. At EPA's request,
19 Respondents must additionally submit any previous studies in
20 their possession conducted under state, local or other federal
21 authorities relating to selection of the response action, and all
22 correspondence between any Respondent and state, local or other
23 federal authorities concerning selection of the response action.

24 XII. PROGRESS MEETINGS

25 39. Respondents shall make presentations at, and
26 participate in, progress meetings every other month at the
27 direction of EPA during the initiation, conduct, and completion
28 of the RI/FS. If necessary, at EPA's discretion, meetings may be

1 held more frequently than every other month, and Respondents, or
2 their designated representative, shall attend such meetings. In
3 addition to discussion of the technical aspects of the RI/FS,
4 topics will include anticipated problems or new issues. Meetings
5 will be scheduled at EPA's discretion. Respondents shall
6 designate one or more representatives to participate in the
7 progress meetings. In addition, EPA will, at its discretion,
8 invite other federal, state and local government agencies and the
9 public to designate representatives to the meetings.

10 XIII. SAMPLING, ACCESS AND DATA AVAILABILITY/ADMISSIBILITY

11 40. Progress Reports shall be submitted to EPA as
12 provided in the Work Plan. If requested by EPA in writing,
13 Respondents shall submit any results or data as requested by EPA
14 in 7 days or less after receipt of the results or data by the
15 Respondents.

16 41. Respondents will orally notify EPA at least 14
17 days prior to conducting field events as described in the RI/FS
18 Work Plan or sampling and analysis plan or any other field work
19 outside of this Order but related to the Facility. At EPA's oral
20 or written request or the request of EPA's authorized
21 representative, Respondents shall provide split or duplicate
22 samples to EPA and/or its authorized representatives of any
23 samples collected by or on behalf of Respondents in implementing
24 this Consent Order or of any samples collected outside of this
25 Order but related to the Facility.

26 42. Respondents shall not interfere with EPA and its
27 authorized representatives' entering on and freely moving about,
28 at all times, all areas at the Site and all off-Site areas. This

1 shall include access to areas where work is being performed, for
2 the purposes of inspecting conditions, activities, the results of
3 activities, records, operating logs and contracts at or related
4 to the Site or the hazardous waste practices or actions of
5 Respondents or their contractors or other agents; reviewing the
6 progress of Respondents in carrying out the terms of this Consent
7 Order; conducting tests as EPA or its authorized representatives
8 deem necessary or appropriate; using a camera, sound recording
9 device or other documentary type equipment; and verifying the
10 data submitted to EPA by Respondents. Respondents shall allow
11 EPA or its representatives to inspect and copy all records,
12 files, photographs, documents, sampling and monitoring data and
13 other writings or electronically stored information related to
14 work undertaken in carrying out this Consent Order; provided that
15 nothing in this Consent Order shall be interpreted as requiring
16 any Respondent to provide EPA with documents or communications
17 protected by the attorney-client privilege, work-product rule, or
18 any other protection available under law. In the event
19 Respondents withhold any documents or communications on the
20 grounds of the attorney-client privilege, work-product rule, or
21 any other protection available under law, Respondents shall
22 identify the documents or communications that are being withheld.
23 Nothing herein shall be interpreted as limiting EPA's right of
24 entry or inspection authority under federal or state law. All
25 parties with access to the Site under this paragraph shall comply
26 with the Site health and safety plans.

27 43. Any Respondent may assert a claim of business con-
28 fidentiality covering part or all of the information submitted to

1 EPA pursuant to the terms of this Consent Order under 40 C.F.R.
2 §2.203, provided such claim is allowed by section 104(e)(7) of
3 CERCLA, 42 U.S.C. §9604(e)(7). This claim shall be asserted in
4 the manner described by 40 C.F.R. §2.203(b) and substantiated at
5 the time the claim is made. Information determined to be con-
6 fidential by EPA will be given the protection specified in 40
7 C.F.R. Part 2. If no such claim accompanies the information when
8 it is submitted to EPA, it may be made available to the public by
9 EPA without further notice to the Respondent. Respondents shall
10 not assert confidentiality claims with respect to any data
11 related to Facility conditions, sampling or monitoring.

12 44. For purposes of this Consent Order, Respondents
13 waive any objections to any data gathered or generated by EPA,
14 the State of California or any Respondent in the performance or
15 oversight of the work that has been verified according to the
16 quality assurance/quality control (QA/QC) procedures required by
17 the Consent Order or any EPA-approved RI/FS Work Plans or
18 sampling and analysis plans. Notwithstanding the foregoing,
19 Respondents do not waive: (a) their right to comment upon the
20 significance of such data or the manner in which such data should
21 be evaluated; and (b) their right to object to such data in any
22 subsequent litigation not involving the United States. If
23 Respondents object to any other data relating to the RI/FS,
24 Respondents shall submit to EPA a report that identifies and
25 explains their objections, describes the acceptable uses of the
26 data, if any, and identifies any limitations to the use of the
27 data. The report must be submitted to EPA within 14 days of the
28 due date of the progress report required to contain the data.

45(a). The Site and any off-Site commercial property that is to be used for access or otherwise for any work hereunder are owned and controlled in whole or in part by persons other than Respondents. Respondents will use their best efforts to obtain the right to enter and use such property, including by entering into agreements or easements permitting such access or other use from such person(s) within 90 days of (i) the effective date of this Consent Order and prior to scheduled field activities or (ii) if later, the date EPA determines a particular agreement or easement is necessary. Such agreements or easements or other rights as Respondents may obtain shall provide access for EPA and its authorized representatives and the State of California and its authorized representatives and shall specify that Respondents are not EPA's representatives or agents with respect to liability associated with Site or off-Site activities. Copies of such agreements or easements shall be provided to EPA prior to Respondents' initiation of field activities related to such access. Respondents' best efforts shall include, where reasonably necessary, compensating the appropriate person for the agreement or easement by payment of reasonable compensation thereof to any such person. Immediately upon becoming aware that it will not be reasonably possible to obtain such access, Respondents shall notify EPA. EPA may take appropriate actions including, but not limited to, obtaining access for Respondents, performing those tasks or activities with EPA contractors, or terminating the Consent Order in the event that Respondents cannot obtain such access. Respondents shall not be obligated to pay a takeover of work penalty if EPA takes over work pursuant to

1 the preceding sentence and Respondents have complied with this
2 paragraph to EPA's satisfaction. In the event that EPA performs
3 those tasks or activities with contractors and does not terminate
4 the Consent Order, Respondents shall perform all other activities
5 not requiring access to that property and shall reimburse EPA for
6 all costs incurred in connection with the tasks or activities
7 which EPA performs. Respondents additionally shall integrate the
8 results of any such tasks undertaken by EPA into their reports
9 and deliverables. Furthermore, the Respondents agree to
10 indemnify the U.S. Government as specified in Section XXV of this
11 Order. Respondents also shall reimburse EPA for all costs and
12 attorneys fees incurred by EPA to obtain such access pursuant to
13 this paragraph.

14 (b) If any off-Site residential property that is to be
15 used for access or otherwise for any work hereunder is owned or
16 controlled in whole or in part by persons other than a
17 Respondent, EPA will attempt to obtain the right for Respondents
18 to enter and use such property, including, where reasonably
19 necessary, by entering into agreements or obtaining easements
20 permitting such access or other use from such person(s) (i) prior
21 to scheduled field activities or (ii) if later, the date EPA
22 determines a particular agreement or easement is necessary. Such
23 agreements or easements or other rights as EPA may obtain shall
24 provide access for Respondents and their authorized
25 representatives, EPA and its authorized representatives, and the
26 State of California and its authorized representatives, and shall
27 specify that Respondents are not EPA's representatives or agents
28 with respect to liability associated with such off-Site

1 activities. Where EPA determines that obtaining access to off-
2 Site residential property will require compensating the
3 appropriate person for the agreement or easement by payment of
4 reasonable compensation to any such person, the Respondents shall
5 pay such reasonable compensation to such person. If EPA
6 determines that it will not be reasonably possible to obtain
7 access to any off-Site residential property, EPA may take
8 appropriate actions, including, but not limited to, obtaining
9 access only for EPA and performing the necessary tasks or
10 activities with EPA contractors, or terminating the Consent
11 Order. Respondents shall not be obligated to pay a takeover of
12 work penalty if EPA takes over work pursuant to the preceding
13 sentence. In the event that EPA performs those tasks or
14 activities with contractors and does not terminate the Consent
15 Order, Respondents shall perform all other activities not
16 requiring access to that property and shall reimburse EPA for all
17 costs incurred in connection with the tasks or activities which
18 EPA performed. Respondents additionally shall integrate the
19 results of any such tasks undertaken by EPA into their reports
20 and deliverables. Furthermore, the Respondents agree to
21 indemnify the U.S. Government as specified in Section XXV of this
22 Order. Respondents also shall reimburse EPA for all costs and
23 attorneys fees incurred by EPA to obtain such access pursuant to
24 this paragraph.

25 XIV. DESIGNATED PROJECT COORDINATORS

26 46. Documents, including reports, approvals,
27 disapprovals, notices and other writings, that must be sent
28 pursuant to this Consent Order shall be sent by first class or

1 | express mail or by hand to the following addressees and to any
2 | other addressees EPA may designate in writing:

3 | (a) Documents to be submitted to EPA shall be sent to:

4 | Thomas Huetteman
5 | Remedial Project Manager (H-6-2)
6 | Hazardous Waste Management Division
7 | U.S. EPA, Region IX
8 | 75 Hawthorne Street
9 | San Francisco, CA 94105
10 | (415) 744-2224

11 | Respondents shall provide an original and two copies of each
12 | deliverable required by this Consent Order to EPA's Project
13 | Coordinator, and Respondents shall provide as many additional
14 | copies of such documents as reasonably requested by EPA's Project
15 | Coordinator. All additional copies of a document requested in
16 | advance of submittal of that document to EPA shall be provided
17 | with the original submittal. All other copies requested shall be
18 | provided within 10 days after EPA's request.

19 | (b) Documents to be submitted to the Respondents shall be
20 | sent to:

21 | Richard Freudenberger
22 | Environmental Strategies Corporation
23 | 101 Metro Drive, Suite 650
24 | San Jose, CA 95110

25 | EPA shall provide an original of each document which it submits
26 | to the Respondents under this Consent Order.

27 | 47. EPA's Project Coordinator will be the EPA staff
28 | person designated for receipt of documents. On or before the
effective date of this Consent Order, Respondents shall
collectively designate a single Project Coordinator.
Respondents' Project Coordinator may assign a representative,
including a contractor, to serve as Site representative for

1 oversight of performance of daily operations during the RI/FS.
2 The project coordinator shall be responsible for overseeing the
3 implementation of this Consent Order. To the maximum extent
4 possible, communications between the Respondents and EPA shall be
5 directed to the Project Coordinators by mail, with copies to such
6 other persons as EPA, the State, and Respondents may respectively
7 designate. Such communications include, but are not limited to,
8 all documents, reports, approvals, and other correspondence
9 submitted under this Consent Order.

10 48. EPA and the Respondents each may change their
11 respective Project Coordinator. The other party must be notified
12 in writing at least 10 days prior to the change.

13 49. EPA's Project Coordinator shall have the authority
14 lawfully vested in or delegated to a Remedial Project Manager
15 (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition,
16 EPA's Project Coordinator shall have the authority reserved to
17 EPA in paragraph 27 hereof. The absence of the EPA Project
18 Coordinator from the area under study or any other area shall not
19 be cause for the stoppage or delay of work. The Respondents'
20 Project Coordinator shall have the authority to halt work
21 required by this Consent Order if he or she determines that
22 conditions may present an immediate risk to health or welfare or
23 the environment. After halting any work, the Respondents'
24 Project Coordinator shall immediately confer with the EPA Project
25 Coordinator to determine how to perform the work in a manner that
26 is consistent with this Consent Order and that protects human
27 health and the environment, and to determine whether any
28 extension of the schedule of deliverables is warranted. If the

1 EPA Project Coordinator and the Respondents' Project Coordinator
2 are unable to reach agreement on whether the work which has been
3 halted should be resumed, how such work should be performed, or
4 whether any extension of the schedule of deliverables is
5 warranted, Respondents may invoke the dispute resolution
6 procedures under Section XVII of this Consent Order.

7 50. EPA may arrange for a qualified person not on EPA
8 staff to assist in its oversight and review of the conduct of the
9 RI/FS, as required by section 104(a) of CERCLA, 42 U.S.C.
10 §9604(a). The assistant may observe work and make inquiries in
11 the absence of EPA, but is not authorized to modify the RI/FS
12 Work Plan or sampling and analysis plan or to take the actions
13 specified in the preceding paragraph.

14 XV. OTHER APPLICABLE LAWS

15 51. Respondents shall comply with all applicable laws
16 and regulations when performing the RI/FS. Pursuant to CERCLA
17 and the NCP, no local, state or federal permit shall be required
18 for any portion of any action conducted on-Site, including
19 studies, where such action is selected and carried out in
20 compliance with section 121 of CERCLA.

21 XVI. RECORD PRESERVATION

22 52. The Respondents shall preserve and retain and
23 shall instruct their contractors, subcontractors and anyone else
24 acting on their behalf to preserve and retain all records and
25 documents prepared in accordance with this Consent Order, for
26 eight years after the completion of the final Record of Decision
27 for the Site or termination of this Consent Order, whichever is
28 later. Upon termination of the eight year period set forth in

1 this paragraph, the Respondents shall notify EPA at least 90
2 calendar days before the documents are scheduled to be destroyed.
3 If EPA requests that the documents be saved, the Respondents
4 shall, at no cost to EPA, give EPA the documents or copies of the
5 documents.

6 XVII. DISPUTE RESOLUTION

7 53. Any disputes concerning activities or deliverables
8 required under this Order for which dispute resolution has been
9 expressly provided for, shall be resolved as follows: If the
10 Respondents object to any EPA notice of disapproval or
11 requirement made pursuant to this Consent Order, Respondents
12 shall notify EPA's Project Coordinator in writing of its
13 objections within 14 days of receipt of the disapproval notice or
14 requirement. Respondents' written objections shall define the
15 dispute, state the basis of Respondents' objections, and be sent
16 certified mail, return receipt requested. EPA and the
17 Respondents then have an additional 14 days to reach agreement.
18 If an agreement is not reached within 14 days, Respondents may
19 request a determination by EPA Region IX's Deputy Director for
20 Superfund. The Deputy Director's determination is EPA's final
21 decision. Respondents shall proceed in accordance with EPA's
22 final decision regarding the matter in dispute, regardless of
23 whether Respondents agree with the decision. Use of the dispute
24 resolution provision will not relieve Respondents of their duty
25 to complete the other tasks in a timely manner in accordance with
26 the schedule. This dispute resolution provision or EPA's
27 decision pursuant to this provision does not grant or imply
28 jurisdiction to any court to review EPA's decisions pursuant to

1 this Consent Order. Any correspondence relating to dispute
2 resolutions under this paragraph shall become part of the
3 administrative record, if such correspondence is relevant to
4 remedy selection.

5 54. Respondents are not relieved of their obligations
6 to perform and conduct activities and submit deliverables on the
7 schedule set forth in the RI/FS Work Plan, or the Sampling and
8 Analysis Plan while a matter is pending in dispute resolution.
9 The invocation of dispute resolution does not stay the accrual
10 of, or obligation to pay, stipulated penalties under this Order.

11 XVIII. DELAY IN PERFORMANCE/STIPULATED PENALTIES

12 55. For each day that a Respondent fails to meet a
13 deadline or due date required by this Order or the Work Plan, or
14 fails to produce a deliverable that demonstrates a substantial
15 good faith effort to comply with the requirements of this Order,
16 or otherwise fails to perform in accordance with the requirements
17 of this Order, Respondents shall be liable for stipulated
18 penalties in accordance with this Section. Penalties begin to
19 accrue on the day that performance is due or a violation occurs,
20 and extends through the period of correction but not past
21 termination of this Order. Where a revised submission by
22 Respondents is required, stipulated penalties shall continue to
23 accrue until a satisfactory deliverable is produced. EPA will
24 provide written notice for violations that are not based on
25 timeliness; nevertheless, penalties shall accrue from the day a
26 violation commences. Payment shall be due within 30 days of
27 receipt of a demand letter from EPA. Dispute resolution shall
28 not stay the accrual of these stipulated penalties.

1 56. Respondents shall pay interest on the unpaid
2 balance of penalties due. Such interest shall begin to accrue at
3 the end of the 30-day period established in the preceding
4 paragraph at the rate established by the Department of Treasury
5 pursuant to 30 U.S.C. §3717.

6 57. Respondents shall make all payments due under any
7 provision of this Order by forwarding a certified or cashier's
8 check to:

9 U.S. Environmental Protection Agency
10 Region IX, Attn: Superfund Accounting
 P.O. Box 360863M
 Pittsburgh, PA 15251

11 All checks shall be made payable to "EPA-Hazardous Substance
12 Superfund" and shall identify the name of the Site, the Site
13 identification number, the account number and the title of this
14 Order. A copy of the check and transmittal letter shall be for-
15 warded to the EPA Project Coordinator.

16 58(a). For the following major deliverables stipulated
17 penalties shall accrue in the following amounts for each late
18 deliverable or other violation: \$500 per day, per violation, for
19 the first 7 days of non-compliance; \$1000 per day, per violation,
20 for the 8th through 14th day of noncompliance; \$5,000 per day,
21 per violation, for the 15th through 30th day of noncompliance;
22 and \$10,000 per day, per violation, for all violations lasting
23 beyond 30 days:

- 24 1. Draft Site Sampling and Analysis Plan;
- 25 2. Final Site Sampling and Analysis Plan;
- 26 3. Submittal of Unvalidated Phase I Laboratory Results;
- 27 4. Sampling and Analysis Plan Addendum on Phase II Sampling;
- 28 5. Submittal of Unvalidated Phase II Laboratory Results;

1 6. Draft RI/FS Report;

2 7. Final RI/FS Report.

3 (b) For all other deliverables or other performance
4 required under this Consent Order, stipulated penalties, shall
5 accrue in the following amounts for each late deliverable, missed
6 due date, or other violation: \$250 per day, per violation, for
7 the first 7 days of non-compliance; \$500 per day, per violation,
8 for the 8th through 14th day of noncompliance; \$1,000 per day,
9 per violation, for the 15th through 30th day of noncompliance;
10 and \$2,000 per day, per violation, for all violations lasting
11 beyond 30 days.

12 (c) Respondents may dispute EPA's right to the stated
13 amount of penalties by invoking the dispute resolution procedures
14 under Section XVII of this Consent Order. Penalties shall accrue
15 but need not be paid during the dispute resolution period. If
16 Respondents do not prevail upon resolution, all penalties shall
17 be due to EPA within 30 days of resolution of the dispute. If
18 Respondents prevail upon resolution, no penalties shall be paid.

19 59. The stipulated penalties provisions do not
20 preclude EPA from pursuing any other remedies or sanctions
21 available to EPA because of the Respondents' failure to comply
22 with this Consent Order, including but not limited to conduct of
23 all or part of the RI/FS by EPA. Payment of stipulated penalties
24 does not alter any Respondent's obligations to complete its
25 obligations under this Consent Order.

26 60. The schedule, due dates and specific time frames
27 for Respondents' submission of deliverables to EPA pursuant to
28 the RI/FS Work Plan are provided in Appendix B of this Consent

1 Order. Other due dates for performance are also included
2 elsewhere in this Order. All interim deliverables shall be
3 approved by EPA unless EPA determines that approval is not
4 required.

5 61. Respondents are jointly and severally liable for
6 the payment of stipulated penalties accruing under this Consent
7 Order.

8 XIX. FORCE MAJEURE

9 62. "Force Majeure," for purposes of this Consent
10 Order, is any event arising from causes beyond the control of any
11 Respondent and of Respondents' contractors, consultants and
12 subcontractors, that delays or prevents performance of any
13 obligation under this Consent Order notwithstanding Respondents'
14 best efforts to avoid the delay. The requirement that the
15 Respondents exercise best efforts includes using best efforts to
16 anticipate any potential force majeure event and best efforts to
17 address the effects of any potential force majeure event (1) as
18 it is occurring and (2) following the potential force majeure
19 event, such that the delay is minimized to the extent
20 practicable. Examples of events that are not force majeure
21 events include, but are not limited to, increased costs or ex-
22 penses of any work to be performed under this Order, or financial
23 or business difficulties of one or more Respondents.

24 63. If any event may occur or has occurred that may
25 delay the performance of any obligation under this Order, whether
26 or not caused by a force majeure, Respondents shall notify by
27 telephone the EPA Project Manager or, in his or her absence, the
28

1 Chief of the Superfund Programs Northern California Section (H-6-
2 2), EPA Region 9, within 2 days of when the Respondents knew that
3 the event might cause a delay. Within 7 days thereafter,
4 Respondents shall provide in writing the reasons for the delay;
5 the anticipated duration of the delay; all actions taken or to be
6 taken to prevent or minimize the delay; a schedule for
7 implementation of any measures to be taken to mitigate the effect
8 of the delay; and a statement as to whether, in the opinion of
9 Respondents, such event may cause or contribute to an
10 endangerment to public health, welfare or the environment.
11 Respondents shall exercise best efforts to avoid or minimize any
12 delay and any effects of a delay. Failure to comply
13 substantially with the requirements of this paragraph shall
14 preclude Respondents from asserting any claim of force majeure.

15 64. If EPA agrees that a delay or anticipated delay is
16 attributable to force majeure, the time for performance of the
17 obligations under this Order that are affected by the force
18 majeure event shall be extended by agreement between EPA's
19 Project Coordinator and Respondents' representative for a period
20 of time not to exceed the actual duration of the delay caused by
21 the force majeure event. An extension of the time for
22 performance of the obligation directly affected by the force
23 majeure event shall not, of itself, extend the time for
24 performance of any subsequent obligation, unless the subsequent
25 obligation is dependent on the obligation directly affected by
26 the force majeure event.

27 65. If EPA does not agree that the delay or
28 anticipated delay has been or will be caused by a force majeure

event, or does not agree with Respondents on the length of the extension, the issue shall be subject to the dispute resolution procedures set forth in Section XVII of this Order. In any such proceeding, to qualify for a force majeure defense, Respondents shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondents did exercise or are using their best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of this Section (Section XIX).

XX. REIMBURSEMENT OF PAST COSTS

66. The Respondents shall pay past response costs incurred by the United States through January 31, 1993, in connection with the IWP Facility, in the amount and pursuant to the terms set forth in the Administrative Order on Consent for Payment of Past Costs ("the Past Costs Consent Order"), which the Respondents are entering into concurrently herewith. All costs which have been or will be incurred by the United States after January 31, 1993, and which are related to the Facility, the RI/FS and are within the scope of this Consent Order, shall not be included under the Past Costs Consent Order but rather shall be included under Section XXI below of the Administrative Order on Consent for Remedial Investigation/Feasibility Study (this Consent Order) as Response and Oversight Costs. Respondents agree to pay all such costs which have been or will be incurred by the United States after January 31, 1993, pursuant to the terms of Section XXI below of this Consent Order.

XXI. REIMBURSEMENT OF RESPONSE AND OVERSIGHT COSTS

67. Following the effective date hereof, EPA may submit to Respondents on a periodic or other basis, and will make a good faith effort to do so no less frequently than annually, payment demands containing documentation of response and oversight costs. "Response Costs" shall mean all costs incurred after January 31, 1993, which are related to the Facility, the RI/FS and are within the scope of this Consent Order, including, but not limited to: (a) activities performed by EPA as part of the RI/FS and community relations, (b) costs incurred to obtain access, (c) all direct costs, including, but not limited to, time and travel costs of EPA personnel, cooperative agreement costs, contractor costs, compliance monitoring, including the collection and analysis of split samples, inspection of RI/FS activities, Site visits, discussions regarding disputes that may arise as a result of this Consent Order, costs of performing the baseline risk assessment, and review and approval or disapproval of reports and costs of redoing any of Respondents' tasks; (d) associated indirect or overhead costs. "Oversight Costs" shall mean costs incurred by EPA in overseeing Respondents' implementation of this Consent Order. Cost summaries provided by EPA, including EPA's certified Agency Financial Management System summary data (SPUR Reports) or EPA's Cost Documentation Management System Report (CDMS), shall serve as sufficient basis for payment demands. Except as provided in the following paragraph, the Respondents shall, within 30 days of receipt of each such demand, remit or cause to be remitted a certified or cashier's check for the amount of those costs.

1 Copies of the transmittal letter and check should be sent
2 simultaneously to the EPA Project Coordinator. Interest shall
3 accrue from 30 days after a payment of a specified amount is
4 demanded in writing and shall continue until the date of the
5 payment. The interest rate is the rate of interest on
6 investments for the Hazardous Substances Superfund in section
7 107(a) of CERCLA. Notwithstanding EPA's proposed Cost Recovery
8 Rule (57 Fed. Reg. 34742-34755, August 6, 1992), or any other
9 cost recovery rules proposed by EPA subsequent to the effective
10 date of this Consent Order, which would, among other things,
11 significantly increase the indirect costs charged by EPA, the
12 indirect costs to be paid by the Respondents under this Consent
13 Order shall be based upon the indirect cost allocation
14 methodology in effect on January 1, 1993, and as based on the
15 EPA's Superfund Indirect Cost Manual issued in July 1991.

16 68. Respondents agree to limit any disputes concerning
17 costs to accounting errors and the inclusion of costs outside the
18 scope of this Consent Order. Respondents shall identify any
19 disputed costs and the basis of their objection. All undisputed
20 costs shall be remitted by Respondents in accordance with the
21 schedule set forth above. If any costs are disputed and the
22 dispute is resolved in EPA's favor, Respondents shall, at the
23 conclusion of the dispute resolution process, remit or cause to
24 be remitted a certified or cashier's check for the amount of the
25 costs which have been determined to be due and owing, and any
26 interest which has accrued thereon. Interest on disputed costs
27 shall accrue in the same manner and at the same rate as provided
28 above in paragraph 67 of this Consent Order. Respondents bear

1 the burden of establishing an EPA accounting error or the
2 inclusion of costs outside the scope of this Consent Order.

3 XXII. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS

4 69. EPA reserves the right to bring an action against
5 any or all Respondents under section 107 of CERCLA for recovery
6 of any response costs, including Oversight Costs, incurred by the
7 EPA at the Facility that are not reimbursed by Respondents, any
8 costs incurred in the event that EPA performs the RI/FS or any
9 part thereof, and any other costs incurred by EPA in connection
10 with response activities conducted under CERCLA or any other
11 legal authority at the Facility. Except as expressly provided in
12 this Consent Order, Respondents reserve all rights they may have
13 to oppose and defend against any action brought by EPA, and to
14 assert any and all claims they may have against EPA, any person,
15 and any government agency.

16 70. EPA reserves the right to bring an action against
17 any or all Respondents to enforce the past costs and costs
18 reimbursement requirements of this Consent Order, to collect
19 stipulated penalties assessed pursuant to section XVIII of this
20 Consent Order, to seek penalties pursuant to section 109 of
21 CERCLA, 42 U.S.C. §9609, and to seek punitive damages pursuant to
22 section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Except as
23 expressly provided in this Consent Order, Respondents reserve all
24 rights they may have to oppose and defend against any action
25 brought by EPA, and to assert any and all claims they may have
26 against EPA, any person, and any government agency.

27 71. Except as expressly provided in this Consent
28 Order, each Party reserves all rights and defenses it may have.

1 Nothing in this Consent Order shall affect EPA's removal
2 authority or EPA's response or enforcement authorities including,
3 but not limited to, the right to seek injunctive relief,
4 stipulated penalties, statutory penalties, and/or punitive
5 damages against any or all Respondents or other persons.

6 72. Following satisfaction of the requirements of this
7 Consent Order, Respondents shall have resolved their liability,
8 if any, to EPA for the work performed by the Respondents pursuant
9 to this Consent Order. Respondents are not released from
10 liability for any response actions taken beyond the scope of this
11 Consent Order regarding removals, other operable units, remedial
12 design/remedial action of this operable unit, or activities
13 arising pursuant to section 121(c) of CERCLA.

14 73. With regard to claims for contribution against
15 Respondents for matters addressed in this Consent Order, the
16 parties hereto agree that the Respondents are entitled to such
17 protection from contribution actions or claims as provided by
18 CERCLA Section 113(f)(2), 42 U.S.C. §9613(f)(2).

19 XXIII. OTHER CLAIMS

20 74. In entering into this Order, Respondents waive any
21 right to seek reimbursement under section 106(b) of CERCLA.
22 Respondents also waive any right to present a claim under section
23 111 or 112 of CERCLA. This Order does not constitute any
24 decision on preauthorization of funds under section 111(a)(2) of
25 CERCLA. Respondents further waive all other statutory and common
26 law claims against EPA, including, but not limited to,
27 contribution and counterclaims, relating to or arising out of
28 conduct of the RI/FS.

1 75. Nothing in this Order shall constitute or be
2 construed as a release from any claim, cause of action or demand
3 in law or equity against any person, firm, partnership,
4 subsidiary or corporation not a signatory to this Consent Order
5 for any liability it may have arising out of or relating in any
6 way to the generation, storage, treatment, handling,
7 transportation, release, or disposal of any hazardous substances,
8 pollutants, or contaminants found at, taken to, or taken from the
9 site. Respondents reserve all rights they may have to recover
10 from third parties their costs under this Consent Order and at
11 the Facility.

12 76. Respondents shall bear their own costs and
13 attorneys fees.

14 XXIV. DISCLAIMER

15 77. By signing this Consent Order and taking actions
16 under this Consent Order, the Respondents do not necessarily
17 agree with EPA's Findings of Fact and Conclusions of Law.
18 Furthermore, the participation of the Respondents in this Consent
19 Order shall not be considered an admission of liability and is
20 not admissible in evidence against the Respondents in any
21 judicial or administrative proceeding other than a proceeding by
22 the United States, including EPA, to enforce this Consent Order
23 or a judgment enforcing this Consent Order. Respondents retain
24 their rights to assert claims against other potentially
25 responsible parties at the Site. However, the Respondents agree
26 not to contest the validity or terms of this Consent Order, or
27 the procedures underlying or relating to it in any action brought
28 by the United States, including EPA, to enforce its terms.

1 XXV. FINANCIAL ASSURANCE, INSURANCE AND INDEMNIFICATION

2 78. Within 30 Days of entry of this Consent Order, the
3 Respondents shall establish and maintain financial security in
4 the amount of \$750,000 through a demonstration that one or more
5 of the Respondents satisfy the requirements of 40 C.F.R. Part
6 264.143(f).

7 79. One or more of the Respondents shall resubmit
8 sworn statements conveying the information required by 40 C.F.R.
9 Part 264.143(f) annually, on the anniversary of the effective
10 date of this Consent Order. In the event that EPA determines at
11 any time that the financial assurances provided pursuant to this
12 Section are inadequate, the Respondents shall, within 30 days of
13 receipt of notice of EPA's determination, obtain and present to
14 EPA for approval another form of financial assurance satisfactory
15 to EPA. The Respondents' inability to demonstrate financial
16 ability to complete the work and other obligations under this
17 Consent Order shall not excuse performance of any activities
18 required under this Consent Order.

19 80(a). Prior to commencement of any work under this
20 Order, Respondents shall demonstrate to EPA that Respondents'
21 consultant has secured and shall maintain in force for the
22 duration of this Order Comprehensive General Liability ("CGL")
23 and automobile insurance, with limits of not less than \$5 million
24 combined single limit, naming as insured the United States. The
25 CGL insurance shall include Contractual Liability Insurance in
26 the amount of not less than \$1 million per occurrence, and
27 Umbrella Liability Insurance in the amount of not less than \$2
28 million per occurrence. Prior to commencement of any work under

1 this Order, and annually thereafter on the anniversary of the
2 effective date of this Consent Order, Respondents shall provide
3 to EPA certificates of such insurance and, if EPA so requests, a
4 copy of the insurance policies.

5 (b) Respondents shall also demonstrate to EPA that
6 Respondents' consultant has secured and shall maintain in force
7 for the duration of this Order the following: Professional Errors
8 and Omissions Insurance in the amount of not less than \$1 million
9 per occurrence. Prior to commencement of any work under this
10 Consent Order, and annually thereafter on the effective date of
11 this Consent Order, Respondents shall provide to EPA a
12 certificate of such insurance and, if EPA so requests, a copy of
13 the insurance policy.

14 81. If Respondents' consultant is unable to satisfy
15 the insurance requirements of Paragraph 79 of this Consent Order,
16 the Respondents shall obtain the required insurance and shall
17 comply with all of the provisions of Paragraph 79 of this Consent
18 Order.

19 82. The Respondents agrees to indemnify and hold the
20 United States Government, its agencies, departments, agents, and
21 employees harmless from any and all claims or causes of action
22 arising from or on account of acts or omissions of Respondents,
23 their employees, agents, servants, receivers, successors,
24 assignees, or contractors, in carrying out activities under this
25 Consent Order, except to the extent that the act or omission was
26 directed by EPA over the good faith objection of Respondents.
27 The United States Government or any agency or authorized
28 representative thereof shall not be held as a party to any

1 contract entered into by Respondents in carrying out activities
2 under this Consent Order.

3 XXVI. EFFECTIVE DATE AND MODIFICATION

4 83. The effective date of this Consent Order shall be
5 the date it is signed by EPA.

6 84. Except as expressly provided for in this Consent
7 Order, the Order may not be amended or modified except by written
8 agreement of EPA and each affected Respondent. Amendments shall
9 be effective when signed by EPA after each Respondent has signed.
10 EPA Project Coordinators do not have the authority to sign
11 amendments or modifications to the Consent Order, except for
12 those amendments or modifications expressly provided for in this
13 Order.

14 XXVII. TERMINATION AND SATISFACTION

15 85. This Consent Order shall terminate when the
16 Respondents demonstrate in writing and certify to the
17 satisfaction of EPA that all activities required under this
18 Consent Order, including any additional work, payment of past
19 costs, payment of response and oversight costs, and payment of
20 any stipulated penalties due, have been performed and EPA has
21 approved the certification. This termination shall not, however,
22 affect Respondents' obligations under Sections XVI, XXII, XXIII,
23 or paragraph 82 of this Consent Order.

24 86. The certification shall be signed by an authorized
25 representative of each Respondent. Each representative shall
26 make the following attestation: "I certify that the information
27 contained in or accompanying this certification is true,
28 accurate, and complete." For purposes of this Consent Order, an

1 authorized representative is an official who is in charge of a
2 principal function of the entity at issue.

3 XXVIII. COUNTERPARTS

4 87. This Consent Order may be executed and delivered
5 in any number of counterparts, each of which, when executed and
6 delivered, shall be deemed to be an original, but such
7 counterparts shall together constitute one and the same document.

8 IT IS SO AGREED:

9
10 AMERICAN NATIONAL CAN COMPANY

11
12 By: _____ DATE: _____
13 Name:
14 Title:

15 ATLANTIC RICHFIELD COMPANY

16
17 By: _____ DATE: _____
18 Name:
19 Title:

20 CHEVRON U.S.A. INC.

21 By: _____ DATE: _____
22 Name:
23 Title:

24 CONTINENTAL CAN COMPANY, INC.,
25 represented by CROWN BEVERAGE PACKAGING, INC.

26 By: _____ DATE: _____
27 Name:
28 Title:

1 authorized representative is an official who is in charge of a
2 principal function of the entity at issue.

3 XXVIII. COUNTERPARTS

4 , 87. This Consent Order may be executed and delivered
5 in any number of counterparts, each of which, when executed and
6 delivered, shall be deemed to be an original, but such
7 counterparts shall together constitute one and the same document.

8 IT IS SO AGREED:
9

10 AMERICAN NATIONAL CAN COMPANY

11
12 By: X H.A. Johnson DATE: 5/5/93
13 Name: H.A. Johnson
14 Title: Senior Vice President and General Counsel
for S.J. Friesen, Executive Vice President

15 ATLANTIC RICHFIELD COMPANY

16
17 By: _____ DATE: _____
18 Name:
19 Title:

20 CHEVRON U.S.A. INC.

21 By: _____ DATE: _____
22 Name:
23 Title:

24 CONTINENTAL CAN COMPANY, INC.,
25 represented by CROWN BEVERAGE PACKAGING, INC.

26 By: _____ DATE: _____
27 Name:
28 Title:

1 authorized representative is an official who is in charge of a
2 principal function of the entity at issue.

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4 87. This Consent Order may be executed and delivered
5 in any number of counterparts, each of which, when executed and
6 delivered, shall be deemed to be an original, but such
7 counterparts shall together constitute one and the same document.

8 IT IS SO AGREED:

9
10 AMERICAN NATIONAL CAN COMPANY

11
12 By: _____ DATE: _____
13 Name:
14 Title:

15 ATLANTIC RICHFIELD COMPANY

16 By: H.D. White DATE: 4-16-93
17 Name: H.D. WHITE
18 Title: Attorney-in-Fact

19 CHEVRON U.S.A. INC.

20
21 By: _____ DATE: _____
22 Name:
23 Title:

24 CONTINENTAL CAN COMPANY, INC.,
25 represented by CROWN BEVERAGE PACKAGING, INC.

26 By: _____ DATE: _____
27 Name:
28 Title:

1 authorized representative is an official who is in charge of a
2 principal function of the entity at issue.

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7 counterparts shall together constitute one and the same document.

8 IT IS SO AGREED:
9

10 AMERICAN NATIONAL CAN COMPANY
11

12 By: _____ DATE: _____
13 Name:
14 Title:

15 ATLANTIC RICHFIELD COMPANY
16

17 By: _____ DATE: _____
18 Name:
19 Title:

20 CHEVRON U.S.A. INC.
21

22 By: J. N. Stambolis DATE: 4/22/93
23 Name: J. N. Stambolis
24 Title: Superfund Team Leader

25 CONTINENTAL CAN COMPANY, INC.,
26 represented by CROWN BEVERAGE PACKAGING, INC.
27

28 By: _____ DATE: _____
Name:
Title:

1 authorized representative is an official who is in charge of a
2 principal function of the entity at issue.

3 XXVIII. COUNTERPARTS

4 87. This Consent Order may be executed and delivered
5 in any number of counterparts, each of which, when executed and
6 delivered, shall be deemed to be an original, but such
7 counterparts shall together constitute one and the same document.

8 IT IS SO AGREED:
9

10 AMERICAN NATIONAL CAN COMPANY
11

12 By: _____ DATE: _____
13 Name:
14 Title:

15 ATLANTIC RICHFIELD COMPANY
16

17 By: _____ DATE: _____
18 Name:
19 Title:

20 CHEVRON U.S.A. INC.
21

22 By: _____ DATE: _____
23 Name:
24 Title:

25 CONTINENTAL CAN COMPANY, INC.,
26 represented by CROWN BEVERAGE PACKAGING, INC.

27 By: Richard L. Krzyzanowski DATE: 4/5/93 JVT
28 Name: Richard L. Krzyzanowski
Title: Executive Vice President

1 THE DOW CHEMICAL COMPANY

2

3 By: _____ DATE: _____

4 Name:
5 Title:

6

7 MOBIL OIL CORPORATION

8

9 By: _____ DATE: _____

10 Name:
11 Title:

12

13 NL INDUSTRIES, INC.

14

15 By: _____ DATE: _____

16 Name:
17 Title:

18

19 PACIFIC GAS & ELECTRIC COMPANY

20

21 By: _____ DATE: _____

22 Name:
23 Title:

24

25 SHELL OIL COMPANY

26

27 By: _____ DATE: _____

28 Name:
Title:

29

30 SOUTHERN CALIFORNIA GAS COMPANY

31

32 By: _____ DATE: _____

33 Name:
34 Title:

35

36

1 THE DOW CHEMICAL COMPANY

2 *LD*

3 By: *Larry + Burt*
4 Name:
Title:

DATE: *4-7-93*

5
6 MOBIL OIL CORPORATION

7
8 By: _____
9 Name:
Title:

DATE: _____

10 NL INDUSTRIES, INC.

11
12 By: _____
13 Name:
Title:

DATE: _____

14
15 PACIFIC GAS & ELECTRIC COMPANY

16
17 By: _____
18 Name:
Title:

DATE: _____

19 SHELL OIL COMPANY

20
21 By: _____
22 Name:
Title:

DATE: _____

23
24 SOUTHERN CALIFORNIA GAS COMPANY

25
26 By: _____
27 Name:
Title:

DATE: _____

28

1 THE DOW CHEMICAL COMPANY

2

3 By: _____ DATE: _____
4 Name:
5 Title:

6

7 MOBIL OIL CORPORATION

8

9 By: J. G. Zabaga DATE: 4-22-93
10 Name: J. G. Zabaga
11 Title: Superfund Response Manager

12

13 NL INDUSTRIES, INC.

14

15 By: _____ DATE: _____
16 Name:
17 Title:

18

19

20 PACIFIC GAS & ELECTRIC COMPANY

21

22 By: _____ DATE: _____
23 Name:
24 Title:

25

26 SHELL OIL COMPANY

27

28 By: _____ DATE: _____
Name:
Title:

29

30 SOUTHERN CALIFORNIA GAS COMPANY

31

32 By: _____ DATE: _____
33 Name:
34 Title:

35

36

1 THE DOW CHEMICAL COMPANY

2

3 By: _____ DATE: _____
4 Name:
5 Title:

6

7 MOBIL OIL CORPORATION

8

9 By: _____ DATE: _____
10 Name:
11 Title:

12 NL INDUSTRIES, INC.

13

14 By: Janet D. Smith DATE: 4/23/93
15 Name: Janet D. Smith
16 Title: Associate General Counsel

17

18 PACIFIC GAS & ELECTRIC COMPANY

19

20 By: _____ DATE: _____
21 Name:
22 Title:

23

24 SHELL OIL COMPANY

25

26 By: _____ DATE: _____
27 Name:
28 Title:

29

30 SOUTHERN CALIFORNIA GAS COMPANY

31

32 By: _____ DATE: _____
33 Name:
34 Title:

35

36

1 THE DOW CHEMICAL COMPANY

2

3 By: _____ DATE: _____
4 Name:
5 Title:

6

7 MOBIL OIL CORPORATION

8

9 By: _____ DATE: _____
10 Name:
11 Title:

12

13 NL INDUSTRIES, INC.

14

15 By: _____ DATE: _____
16 Name:
17 Title:

18

19 PACIFIC GAS & ELECTRIC COMPANY

20

21 By:  DATE: 4/21/93
22 Name: Jack J. Wong Jr.
23 Title: Manager, Gas Engineering & Environmental Services

24

25

26 SHELL OIL COMPANY

27

28

29 By: _____ DATE: _____
30 Name:
31 Title:

32

33

34 SOUTHERN CALIFORNIA GAS COMPANY

35

36

37 By: _____ DATE: _____
38 Name:
39 Title:

40

41

1 THE DOW CHEMICAL COMPANY

2

3 By: _____ DATE: _____

4 Name:
5 Title:

6

MOBIL OIL CORPORATION

7

8

By: _____ DATE: _____

9 Name:
10 Title:

11

12 NL INDUSTRIES, INC.

13

14 By: _____ DATE: _____

15 Name:
16 Title:

17

PACIFIC GAS & ELECTRIC COMPANY

18

19

By: _____ DATE: _____

20 Name:
21 Title:

22

23 SHELL OIL COMPANY

24

25 By:  _____ DATE: 4-16-93

26 Name: E. J. Voiland
27 Title: General Manager, E&P California Division

28

SOUTHERN CALIFORNIA GAS COMPANY

29

30

By: _____ DATE: _____

31 Name:
32 Title:

33

34

1 THE DOW CHEMICAL COMPANY

2
3 By: _____ DATE: _____
4 Name:
5 Title:

6 MOBIL OIL CORPORATION

7
8 By: _____ DATE: _____
9 Name:
10 Title:

11 NL INDUSTRIES, INC.

12 By: _____ DATE: _____
13 Name:
14 Title:

15 PACIFIC GAS & ELECTRIC COMPANY

16 By: _____ DATE: _____
17 Name:
18 Title:

19 SHELL OIL COMPANY

20
21 By: _____ DATE: _____
22 Name:
23 Title:

24 SOUTHERN CALIFORNIA GAS COMPANY

25 By:  _____ DATE: 04/12/93
26 Name: Anne S. Smith
27 Title: Vice President, Environment & Safety
28

1 | TEXACO, INC.

2 |
3 | By: Harold J. Weiss

DATE: 4/19/93

4 | Name: Harold J. Weiss
5 | Title: Manager - CWSM

6 | TRI-VALLEY GROWERS

7 |
8 | By: _____

DATE: _____

9 | Name:
10 | Title:

11 | The above being agreed and consented to, IT IS SO ORDERED.

12 | U.S. ENVIRONMENTAL PROTECTION AGENCY

13 | By: _____

DATE: _____

14 | Jeffrey Zelikson, Director
15 | Hazardous Waste Management Division
16 | Region IX
17 |
18 |
19 |
20 |
21 |
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23 |
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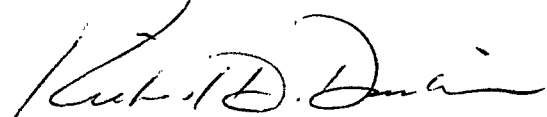
1 | TEXACO, INC.

2 |

3 | By: _____
4 | Name:
5 | Title:

DATE: _____

6 | TRI-VALLEY GROWERS

7 | By: 
8 | Name: Richard D. Dickson
9 | Title: Executive Vice President
 Tri Valley Growers Container Div.

DATE: 4/21/93

10 | The above being agreed and consented to, IT IS SO ORDERED.

11 | U.S. ENVIRONMENTAL PROTECTION AGENCY

12 |

13 | By: _____
14 | Jeffrey Zelikson, Director
15 | Hazardous Waste Management Division
16 | Region IX

DATE: _____

17 |

18 |

19 |

20 |

21 |

22 |

23 |

24 |

25 |

26 |

27 |

28 |

1 TEXACO, INC.

2
3 By: _____
4 Name:
5 Title:

DATE: _____


6 TRI-VALLEY GROWERS

7
8 By: _____
9 Name:
10 Title:

DATE: _____

11 The above being agreed and consented to, IT IS SO ORDERED.

12 U.S. ENVIRONMENTAL PROTECTION AGENCY

13 By:  _____
14 Jeffrey Zelikson, Director
15 Hazardous Waste Management Division
16 Region IX
17
18
19
20
21
22
23
24
25
26
27
28

DATE: 5-12-93

LIST OF APPENDICES

Appendix A: Site map
Appendix B: RI/FS Work Plan dated March 16, 1993, as
revised on March 22, 1993

EACH COPY OF THIS CONSENT ORDER SHALL INCLUDE THE APPENDICES,
WHICH ARE INCORPORATED BY REFERENCE IN THE ORDER AND ARE AN
ENFORCEABLE PART THEREOF.

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